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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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07/12/00

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 03/20/00

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 1/10/00

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

☒ Claim(s) 1, 2, 5-21 is/are pending in the application.  
Of the above, claim(s) 9-20 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, 5-8, 21 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
    - ☐ received.
    - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
    - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4-Sheets
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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### DETAILED ACTION

1. Claims 9-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 4.

2. Applicant's election with traverse of Group I (claims 1,2,5-8,21) in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the groups are all addressed to apparatus for packaging contact lenses, and that the prior art search areas for the different groups would overlap. This is not found persuasive because the restriction is proper, and while there may be some degree of overlap of prior art search areas, examination of the different groups together would place an undue burden on the examination process.

Note that applicants' amendments to the claims have resulted in the following groupings, as suggested by applicants:

Group I, claims 1,2,5-8,21;

Group II, claims 9-12;

Group III, claims 13-14;

Group IV, claims 15-20.

The requirement is still deemed proper and is therefore made FINAL.

3. The copending application data on page 12 of the specification should be updated.

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4. Claims 1,2,5-8 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 1 is indefinite and confusing in that no structure of "an apparatus for packaging" is set forth in or limited by the body of the claim. The body of the claim merely sets forth plural carriers "being movable within the apparatus" and plural containers mounted in the carriers. Claim 5 is indefinite and confusing in that it is not clear whether the recited lift/platen/mandrel structure is part of a sealing station in a packaging apparatus. Claim 5 is indefinite and confusing at lines 7-8 in that the containers are set forth as mounted on the platens, instead of mounted on the carriers as set forth in claim 1, with the carriers being mounted on the platens. The phrases "the thickness" (claim 7, line 6) and "said lidstock" (claim 21 and lines 3,6,7 of claim 7) lack proper antecedent basis.

5. Insofar as the claims are deemed to be definite, the following art rejections are applied.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Abrams et al 5,488,815. Each of plural carriers 64 carries a contact lens container 12.

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by either of DeWoskin 5,054,271 or DeWoskin et al 3,657,857. Each reference includes plural carriers, with cavities, which each hold a single container for transport through packaging apparatus. Note that recitation of a specific contents of the containers is given no patentable weight insofar as the structure of the apparatus is concerned.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1,2,5-8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Marin et al 5,578,331 or Martin et al 5,649,410 or Edwards et al 5,528,878 or Edwards et al 5,626,000 or Edwards et al 5,644,895, each in view of either of DeWoskin 5,054,271 or DeWoskin et al 3,657,857. The primary references substantially teach the claimed invention, but lack specific teaching of the carriers each holding a single contact lens container instead of plural contact lens containers. Each of DeWoskin and DeWoskin et al teach the conventionality of

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providing carriers which each hold a single container in analogous packaging systems in order to transfer and perform operations on individually transported and held containers. In view of such teachings it would have been obvious to one skilled in the art to provide such individual container holding carriers in the systems of the primary references in order to transfer and perform operations on individually transported and held containers. Note that any limitations viewed as not shown by the combined teachings are considered a mere matter of design to one skilled in the art.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remainder of the cited art shows analogous systems. All of the art of record (including the large number of references cited by applicants) should be reviewed carefully before any request for reconsideration.

12. Any inquiry concerning this communication should be directed to Daniel Moon at telephone number (703) 308-1885.



**Daniel B. Moon**  
**Primary Examiner**